

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
:
UNITED STATES OF AMERICA:
:
PETER CASTELLANETA and QUEENS
LONG ISLAND MEDICAL GROUP, P.C.,:
Defendants.-----x
GERARD E. LYNCH, District Judge::
:
07 Civ. 7694 (GEL)

ORDER

USDC SDNY
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On September 4, 2007, this Court issued an order (1) granting the government's application for interpleader and dismissing it from the action, (2) staying this case and placing it on the suspense docket pending the outcome of the state court proceedings, and (3) directing the government to deposit the seized funds with the Court. (Doc. # 2.) Defendant Castellaneta subsequently filed a motion for reconsideration. (Doc. # 3.)

On November 19, 2007, the Court granted Castellaneta's motion for reconsideration and adhered to its prior rulings. (Doc. # 8.) The Court reiterated that "the proper forum for resolving entitlement to the contested funds is in the state court action." (Id.) The Court also noted, however, that if neither Castellaneta nor QLIMG sought to "clarify the question of the interim status of the funds in state court by December 10, 2007, the Court will vacate the stay, and reopen the question of the appropriateness of the interpleader action." (Id.)

The Court has now received letters from both parties indicating that neither party has made an application to the state court to clarify the issue of the interim status of the contested funds. Defendant Castellaneta "requests that this Court vacate its stay and reopen the question of the appropriateness of this federal interpleader action." (Ltr. of Peter E. Brill to the Court, December 19, 2007.) QLIMG, in turn, asserts that it is in the process of making a motion for summary judgment in the state court action and suggests that the matter will be resolved "in an expeditious fashion." (Ltr. of Rachel H. Poritz to the Court, January 15, 2008, at 2.) Accordingly, QLIMG asks for "additional time for the resolution of this issue in state court before lifting the currently imposed stay." (Id.)

This Court has repeatedly expressed its view that the state court action is the proper forum for resolving entitlement to the contested funds and that it would defer to any state court ruling regarding interim relief. Despite the Court's clear directive to the parties to file an application for appropriate provisional relief in state court by December 10, 2007, neither party has done so.

Accordingly, it is hereby ORDERED that defendant Castelleneta's motion to vacate the stay and reopen the question of the appropriateness of the interpleader action is granted. (Doc. # 9.) The Clerk of Court is respectfully directed to transfer this case from the suspense docket to the active docket. Any motions regarding the interim status of the seized funds should be filed expeditiously.

SO ORDERED.

Dated: New York, New York
January 25, 2008


GERARD E. LYNCH
United States District Judge